



DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Chapter 1

[Docket No. FAR-2023-0051, Sequence No. 1]

Federal Acquisition Regulation; Federal Acquisition

Circular 2023-02; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide (SECG).

SUMMARY: This document is issued under the joint authority of DoD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2023-02, which amends the Federal Acquisition Regulation (FAR). Interested parties may obtain further information regarding these rules by referring to FAC 2023-02, which precedes this document.

DATES: [Insert date of publication in the *FEDERAL REGISTER*].

ADDRESSES: The FAC, including the SECG, is available at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2023-02 and the FAR Case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202-501-4755 or *GSAREgSec@gsa.gov*. An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared.

Rules Listed in FAC 2023-02

<i>Item</i>	<i>Subject</i>	<i>FAR Case</i>	<i>Analyst</i>
*I	Accelerated Payments Applicable to Contracts with Certain Small Business Concerns	2020-007	Delgado
*II	Small Business Program Amendments	2019-008	Jones
III	Technical Amendments		

SUPPLEMENTARY INFORMATION: Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these FAR rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2023-02 amends the FAR as follows:

**Item I—Accelerated Payments Applicable to Contracts with
Certain Small Business Concerns (FAR Case 2020-007)**

This final rule provides for accelerated payments to contractors that are small businesses and to small business subcontractors by accelerating payments to their prime contractors. The rule implements section 873 of the

National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2020 (Pub. L. 116-92), which amends 31 U.S.C. 3903(a). The rule also implements section 815 of the William M. (Mac) Thornberry NDAA for FY 2021, which amended 10 U.S.C. 2307(a) (now found at 10 U.S.C. 3801). This final rule may have a positive impact on small entities, but it will not have a significant economic impact on a substantial number of small entities.

Item II—Small Business Program Amendments (FAR Case 2019-008)

This final rule amends the FAR to align with SBA's regulations related to several topic areas. This rule clarifies that SBA determines size status as of the date of initial offer for a multiple-award contract, whether or not the offer includes price, or the price is evaluated. Additionally, in accordance with FAR 19.301-2(b)(2), the "ostensible subcontractor rule" (a small business must not be unduly reliant on a nonsimilarly situated small business subcontractor or have such a subcontractor perform the primary and vital requirements of the contract) is implemented in this rule as a new ground for socioeconomic status protest. The rule also clarifies that contracting officers will not be able to exercise options past the fifth year of long-term 8(a) contracts if the 8(a) contractor no longer qualifies for the 8(a) program. Lastly, the rule clarifies the size standard for the

information technology value added resellers under North American Industry Classification System code 541519 is 150 employees, not 500 employees.

Item III—Technical Amendments

Administrative change is made at FAR 2.101.

William F. Clark,
Director,
Office of Government-wide
Acquisition Policy,
Office of Acquisition Policy,
Office of Government-wide Policy.

[FR Doc. 2023-02429 Filed: 2/13/2023 8:45 am; Publication Date: 2/14/2023]